



## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**FROM** The Registrar, Supreme Court of Appeal  
**DATE** 9 December 2015  
**STATUS** Immediate

*Please note that the media summary is for the benefit of the media and does not form part of the judgment.*

***Aurecon South Africa (Pty) Ltd v City of Cape Town (20384/2014) [2015] ZASCA 209 (9 December 2015)***

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#### **MEDIA STATEMENT**

Today, the Supreme Court of Appeal (SCA) upheld an appeal by Aurecon South Africa (Pty) Ltd, a provider of engineering, management and specialist technical services (Aurecon) and dismissed the order of the Western Cape Division of the High Court, Cape Town against the City of Cape Town (the City).

In the court a quo, the City had launched judicial review proceedings against its own decision to award a tender to Aurecon in 2011 for the Provision of Professional Services: Decommissioning of Athlone Power Station (the tender). The tender flowed from the draft scope of work (or prefeasibility exercise) prepared by Aurecon Engineering International (Pty) Ltd, Aurecon's wholly-owned subsidiary, and ODA (Pty) Ltd as a joint venture. The court a quo reviewed and set aside the decision of the City to award the tender, and set aside any contract which may have come into existence between the City and Aurecon as a result of the tender award. The court a quo also dismissed Aurecon's counter-application for a declaratory order that it was not precluded from bidding for any tender.

The issue before the SCA was whether the City had, in awarding the tender, committed procedural and substantive irregularities in contravention of the provisions of the Promotion of Administrative Justice Act 3 of 2000 (PAJA). The court also had to determine, firstly, whether the court a quo was correct in its finding that it was in the interest of justice to provide the City an extension in terms of s 9(1) of PAJA, where the City exceeded the 180 days' time limit for lodging judicial review proceedings stipulated in s 7(1) of PAJA.

The SCA, in rejecting the City's arguments and upholding Aurecon's contestations, held that the City's explanation for its delay was inadequate, did not make out a case for an extension of the time limit in terms of s 9(1) of PAJA, and failed to establish any basis for the review application. Accordingly, the SCA upheld Aurecon's appeal and ordered that Aurecon was not precluded from bidding for the awarded tender, or for any tender pertaining to the decommissioning of the Athlone Power Station based on the draft scope of work prepared by the joint venture between Aurecon Engineering International (Pty) Ltd and ODA (Pty) Ltd.

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